



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Claim of Ward's Body Shop and Wrecker Service
File: B-232148
Date: October 3, 1988

DIGEST

Company that towed and stored immobile government trailer that blocked the highway and constituted a safety hazard may be paid on quantum meruit basis because services performed in good faith conferred a benefit that was received and accepted by government. The government must limit payments to the extent of the benefit received from the services.

DECISION

The Department of the Army asks the Comptroller General for an advance decision on a claim by Ward's Body Shop and Wrecker Service (Ward's) arising out of towing services rendered as a result of an Army trailer igniting and becoming immobile on a major highway. Of the \$500 billed to the Army, we authorize payment of \$220 on a quantum meruit basis.

BACKGROUND

On December 22, 1987, an Army trailer caught fire and became immobile during transport from Fort Campbell, Kentucky to the Boone National Guard Center in Frankfort, Kentucky. After the fire, with no Army personnel available to consult, a local deputy sheriff summoned Ward's to remove the trailer for reasons of public safety.

The day after Ward's towed the trailer, an Army Installation Transportation Officer (ITO) contacted Ward's to make arrangements for the return of the trailer to Fort Campbell. The ITO told Ward's that the Army planned to retrieve the trailer on December 28, and informed Ward's of the claims procedure that it would have to follow in order to be paid for its services. Ward's did not desire to follow the claims procedure and stated that it would only release the trailer upon receiving payment for services rendered.

043500/137009

Ward's held the trailer a total of 35 days before releasing it on January 25, 1988. Ward's released the trailer only after the Army's Staff Judge Advocate's Office informed it that withholding federal property as security for payment of a government debt is unlawful. Subsequent to releasing the trailer, Ward's submitted a claim requesting payment for towing and storing the trailer. The total amount claimed totaled \$500--i.e., \$100 for 2 hours labor, \$50 for a mile of towing, and \$350 for 35 days of storage (\$10 per day).

ANALYSIS

Under the claim settlement authority of this Office, the Comptroller General may authorize payment on a quantum meruit/quantum valebant basis under certain circumstances. Where action taken by one party has resulted in another's receipt and acceptance of a benefit, even in the absence of an enforceable contract, the law may imply a promise to pay by the receiving party an amount equal to the benefit conferred. Bank of Bethesda, B-215145, Aug. 13, 1985. To recover on a quantum meruit basis, it is the claimant's responsibility to show that the government received a benefit. 64 Comp. Gen. 612 (1985). Absent such proof, no recovery will be awarded. If there should be some dispute as to questions of fact, our Office must rely on statements made by administrative officers of the government. 45 Comp. Gen. 99 (1965).

In the case before us, we have no reason to disagree with the view that the towing was requested by the local deputy sheriff in the interest of public safety, and that the services provided by Ward's in good faith were beneficial to the government. The claimant is entitled to be paid for the benefit received by the government. The question of concern to us is the amount to which Ward's is entitled.

The Army apparently agrees with Ward's that the charges for towing (\$50) and labor (\$100) should be paid. Based on the information submitted to our Office, we find these charges reasonable.

The Army departs from Ward's in its estimation of reasonable charges arising from storage of the trailer. We agree with the Army that Ward's should only be paid \$70 for 7 days of storing the trailer up to the time the Army was prepared to recover the trailer. The other 28 days of storage provided no benefit to the Army. In holding the trailer as security, Ward's intent was to benefit itself.

Therefore, the total amount paid to Ward's should be \$220 for towing, labor, and 7 days of storage. Any other charges are deemed invalid and of no benefit to the government.

for James F. Hicken
Comptroller General
of the United States